

REMARKS

Claims 1 and 34 are amended responsive to the claim objection and the §112 rejection, which are understood to be thus obviated.

Claims 1-39 are rejected under 35 U.S.C. §103 from Aoyama U.S. Patent No. 6,827,963 in view of Wester U.S. Patent No. 6,589,588 and St.-Onge et al. "Phytosterols and Human Lipid Metabolism: Efficacy, Safety and Novel Foods."

The present Amendment revises the single independent composition claim and single method-for-making independent claim 19. Each such claim specifies that the lipid component of the compositions is a structured lipid component having first fatty acid chains from medium chain vegetable triglyceride randomly interexchanged with second fatty acid chains from long chain domestic vegetable oil triglycerides, which first and second fatty acid moieties or chains vary randomly from glycerol structure to glycerol structure. Support is found in paragraphs [0012] and [0035] and elsewhere in the originally filed application.

Applicants have studied Aoyama and have added the randomized structured lipid product feature noted above. Aoyama

fails to teach any such randomized interesterified product. With the present paper, it is clear claim 1 is not a product-by-process claim only but also the claimed product thus claimed is novel and patentable apart from the randomization interesterification called for in the claims.

More specifically, Aoyama teaches triglycerides in which specified fatty acids are combined so as to provide a specific acyl group at the first portion, a specific acyl group at the second portion and a specific acyl group at a third portion of the triglyceride molecule. This precise combination of precisely placed acyl groups is specifically taught as having specific triglyceride structures, disclosed by Aoyama as Formula I, Formula II, Formula II', Formula III, Formula III', Formula IV, Formula V or Formula VI. Whether or not additional formulas might have been contemplated by Aoyama, Aoyama clearly does not disclose, teach or contemplate randomization interesterification or a triglyceride that is a randomization reaction product having interchanged first and second fatty acid moieties that vary randomly from glycerol structure to glycerol structure.

Aoyama teaches glycerol backbones having fatty acids placed thereon at a specific position on the glycerol backbone, which

would not have obviously led one of ordinary skill in the art to the randomized structured lipid component or randomization interesterification of applicants' claimed compositions and methods. Aoyama does not teach randomization; instead, Aoyama teaches the non-randomized triglycerides according to the designated Formulas mentioned above.

In the Office Action, Wester is relied upon to address Aoyama's failure to disclose phytosterol esters. Wester is cited as teaching incorporation of phytosterol esters into specific foods including cooking oils to reduce serum cholesterol in the body by reducing the absorption of cholesterol from the digestive tract. Wester has no teaching concerning random interesterification or the structured lipid components that are claimed by applicants and that are not taught or contemplated by Aoyama.

The St.-Onge reference is cited for its teaching of phytosterols dosing efficacious in lowering cholesterol. St.-Onge does not remove Aoyama's or Wester's deficiencies regarding the claimed randomized interesterified structured lipids or the randomization interesterification that applicants claim.

For these reasons, with the combination of references posited by the Office in this Office Action - even if they had been obvious to combine - one of ordinary skill would not have arrived at applicants' claimed invention. Reconsideration and withdrawal of the §103 rejection are respectfully requested with respect to claims 1 and 19 and to their respective dependent claims.

To the extent the Office nevertheless continues to insist that it has made out a *prima facie* case of obviousness, applicants respectfully refer the Office to the data in this application, especially Example 16. These test data are summarized in paragraph [0125] and show that applicants' invention provided a baseline LDL reduction of 21% over "gold standard," extra virgin olive oil. Reconsideration and withdrawal of the §103 rejection are further believed to be in order for this additional reason.

In response to the statements in the Office Action on the rejection of claims 2-5, 30-33 and 37, applicants have shown Aoyama does not disclose an oil composition identical to that presently claimed. Accordingly, it cannot be concluded that

"modified" Aoyama would display the health benefits recited in these claims.

Regarding claims 11-13, 20-21, 35-36 and 39, Aoyama does not disclose the triglycerides as now claimed and thus does not disclose intrinsically the viscosity and smoke point properties of these claims.

Similar observations are made in response to the statements in the Office Action concerning claim 14-17 and 38.

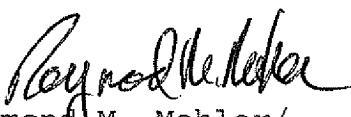
Specifically concerning amended independent method 19, Aoyama does not disclose the random interesterification steps of this claim.

Concerning claims 22-29 and 34, these claims are not obviously arrived at since the dosing and risk-reduction features with the non-randomized structured lipids of Aoyama (even if used with Wester or St.-Onge) cannot be expected to be the same features of those claims, due to differences between the lipids of Aoyama and those of the present claims, especially claim 19.

Applicants have made an earnest endeavor to place this application into condition for allowance, and favorable consideration is respectfully requested.

Respectfully submitted,

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